

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on May 26, 2006, Claim 1 was rejected under 25 U.S.C. § 102(a) as being unpatentable over Chye (8/10/1999) in view of Schechter (1998) and in further view of Gagnon (1997); and Claims 1, 4-12, and 24-26 were rejected under 35 U.S.C. §103 as being upatentable over Chy (8/10/1999) in view of Schechter (1998) in view of Gagnon (1997) in view of Brock et al. (1991) and further in view of Nahir (EP 0 555 573 A1) for the reasons of record.

Claim Rejections under 35 U.S.C. §103

For the reasons set forth below, Applicant submits that the prior art fails both to teach or suggest all the claim limitations, and to clearly and particularly suggest the combination indicated by the Examiner. Thus, Applicant's claims are not obvious in view of the prior art references.

Applicants respectfully submit that the cited references do not teach every aspect of the claimed invention, as amended. In particular, independent claim 1 recites a method for scavenging lipid hydroperoxides and superoxide anion free radicals within the body, said method comprising: harvesting the fruit from a *Morinda citrifolia* plant; preparing said harvested fruit for extraction of the juice therefrom; extracting the juice from said prepared fruit to obtain said *Morinda citrifolia* fruit juice; consuming on an empty stomach each day to inhibit, prevent, and reverse lipid peroxidation, more than one ounce of a dietary supplement comprising: a first juice from *Morinda citrifolia* fruit present in an amount between about 10 and 99.99 percent by weight; processed *Morinda citrifolia* pulp; blueberry juice concentrate; grape juice concentrate; and natural flavoring; inhibiting lipid peroxidation. Independent claim 9 contains similar limitations.

Inhibition of lipidperoxidation is not merely an intrinsic property of *Morinda citrifolia*. For example, TNJ (Tahitian Noni ® Juice) out performed other noni based juices in antioxidant studies performed in connection with this application. U.S. Provisional Pat. App. No. 60/251,417 contains the results of these experiments is incorporated by reference in the present application. The method of making the juice and the various constitutive elements added to the juice before delivery may have a significant effect on lipidperoxidation inhibition. Accordingly, the levels of lipidperoxidation inhibition experienced by utilizing the products and methods of the present invention are not merely intrinsict properties of *Morinda citrifolia*.

As noted above in conjunction with the research detailed in U.S. Provisional Pat. App. No. 60/251,417 the addition of the elements of the dietary supplement of the present invention are not merely a preference issue. Whether one like pulp in their juice is certainly an issue of taste preference, but the addition of pulp and other ingredient do impart increased efficacy as demonstrated by the above mentioned research. Chye, Schechter and Gagnon fail to teach or suggest consuming *Morinda citrifolia* fruit juice to inhibit, prevent or reverse lipid peroxidation. Applicant has amended the claims to include consuming a product which contains blueberry juice concentrate, apple juice concentrate and natural flavoring, and has amended the method to include scavenging lipid hydroperoxides. Chye fails to teach or fairly suggest consuming the *Morinda citrifolia* product of the present invention in order to scavenge lipid hydroperoxides. Schechter indicates that noni fruit contains the antioxidant vitamin C and selenium plus other substances that counteract inflammation and absorb free radicals in the body. However, Schetheter does not disclose the surprising scavenging properties claimed and disclosed in the present invention.

The composition as recited in the claims of the present invention has a scavenging affect which exceeds the regular intake of vitamin C and other known antioxidants. In particular, experiments conducted in support of the present application indicated that the regular intake of the product of the present invention provides a stronger scavenging effect on super oxides and free radicals within the body than the regular intake of vitamin C, pycocogenol (Maritime pine bar extract), or grape seed powder. Specification, page 16, lines 6-15. Accordingly, while Schechter indicates that noni fruit has antioxidants, Schechter does not describe a method of processing and administering the noni fruit so as to provide a stronger scavenging effect as recited in the present invention.

As the cited references fail to disclose or suggest all of the claim limitations of independent claims of the present invention, and further fail to suggest modifying the reference as suggested by the Examiner, the present invention is not obvious in view of such references.

As claims 5-12, 24 and 26 depend from otherwise allowable subject matter, such claims are also not obvious in view of the cited references. Accordingly, Applicant respectfully requests withdrawal of the rejections of claims 1, 5-12, 24 and 26 under Section 103.

CONCLUSION

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

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Respectfully submitted,

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